

# ***Agents & Brokers Role in Virginia's Exchange***

***VHRI Meeting***

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# Agents/Brokers Role



*We ...also acknowledge that health insurance issuers and agents and brokers are likely to play a significant role in the Exchange”*

– Page 46 , HHS final regulations on Establishment of Exchanges

**Agents & Brokers will play a pivotal role inside and outside of the Exchange**



# PPACA Exchange Basics

General guidance on Federally facilitated exchanges (FFE) issued May 16, 2012

“HHS anticipates that agents, brokers and other producers will be a primary channel small businesses use to access coverage through a FF-SHOP. In addition to providing assistance with enrollment activities, HHS anticipates that agents and brokers will continue to be a primary point of contact for a variety of administrative, billing, and claims related issues, and will work with FF-SHOPs to assist their clients in resolving these issues”.

Page 17, CCIIO



# Outside of Exchanges



- Decisions made by VHRI will impact not only inside of the exchange but also the marketplace outside of the exchange.
- We are seeing new innovations, including Private exchange solutions to companies of all sizes, that embrace agents.



# Agents/Brokers Role



## Exchange and Individual Market

Compare and Review of QHP's

Assist consumers enrolling, geographically diverse agents in VA with local knowledge of networks and providers

Enrollment applications, using Exchange website or agents approved site or connect to FFE portal

If permitted by State, Web-based brokers will also be included.

Assist Eligibility verification and determination

Explain subsidy /affordability program, APTC/ CSR's, Medicaid eligibility

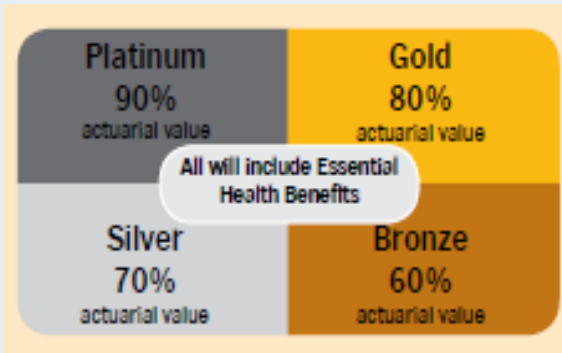
Explain grace period process, "inconsistency" period

Meet other requirements – agreement, training and registration

Ongoing service – life change events, job changes, change in income, claims service, billing, etc



# Agents/Brokers Role



## Exchange and SHOP

Assist Employers in plan selections – offer one or more plan

Help employers count employees to determine if even eligible to participate in exchange

Review Metal Plans and Actuarial Value

Network adequacy – multi state employers

Explain premium aggregation

Review Small business tax credits available to small employers vs. subsidies

Enrollment processes and standards , including new life change events (60 days)

Compliance issues – Employer notices to employees about exchanges & subsidies; employer “shared responsibility” penalty: COB, COBRA, Medicare Secondary rules, SBC’s – employers rely on us to consult on these complex , cumbersome business matters

# Federal Action on Agents/Brokers in Exchanges

- The regulation gives the states much discretion on how agents and the exchange will work together
- The final rule creates a seamless process whereby agents and brokers may enroll individuals and Employer/EEs into QHPs and process access to APTC's/CSRs
- An agreement with the HBE would require agents to register with the exchange, undergo training on the range of QHPs, comply with exchange privacy and security standards
- The states will also have the ability to determine the mechanism for which agents are compensated
- HHS did not set a commission for agents or set exchange marketing standards, but instead left those items up to the states
- Overview of Final Exchange Regulations, Manatt Health Solutions
- NAHU webinar May 2012

# Agents/Brokers/Navigators

- PPACA requires every exchange to have a Navigator program to facilitate health plan enrollment.
- Agents and brokers are specifically listed by the law as one of the groups that may be Navigators, but the law also stipulates a compensation/financing method that conflicts with traditional agent compensation structures.
- PPACA specifically provides for state health insurance exchanges to choose to utilize the services of agents and brokers beyond the navigator program to help exchange customers both with enrollment in qualified plans and also with the premium tax credits.
- Existing laws in every state provide for licensed health insurance producers to sell and service all health plans offered in the state.

**Source: NAHU Webinar Jan, 2012**



## Navigator Role –

### Facilitating enrollment vs. selling product

*“I think a state can prohibit a navigator who is not a licensed agent from soliciting, selling and negotiating insurance, and can probably also prohibit them from enrolling someone in a plan through an exchange,”  
But preventing navigators from making recommendations, he said, “seems to go too far.”*

Timothy Jost, W&L law professor, NAIC consumer rep.

Politico 4/16/2012, regarding Maine legislation



# Agents vs. Navigators – Regulatory Oversight & Consumer Protections

## Agents

- Comply with state licensing (fees, background checks, etc)
- Pass licensing exam
- Comply with CE Requirements
- Demonstrate financial responsibility
- Maintain professional liability insurance (E&O)
- Maintain appointment standards with licensed insurers
- Follow NAIC producer licensing model
- Subject Gramm Leach Bliley Act
- Subject HIPAA privacy and HITECH security and ERISA laws
- + more – see public comments

## Navigators

- State will need to establish certification
- State will need to establish vetting standards and proper oversight
- State will need to include programs that ensure consumer protections, accountability and prevent fraud and abuse
- State will need to determine how to measure the success of outreach and level of fee or grant payments
- No requirement for licensing
- No requirement for E&O



# Considerations

- Where is the Bright line – agents sell, solicit, negotiate – what about navigators?
- Consumer protections – agents are regulated by BOI, CE, E&O ; HIPAA, etc. Navigators regulation – what to establish and who makes whole?
- Address Privacy and Identity Theft concerns
- Rates in exchange – no different if consumers chose to work with carrier directly or an agent or the exchange (p 134 NPRM)
- Consumers can withdraw from web brokers process and use Exchange web instead



# Recommendations

- Inclusion of traditional agents and brokers & of web based brokers – YES – let us create efficiencies and allow for geographically diverse support, both digital and local
- Create a Agent education program to cover new exchange duties
- Create HBE where navigators and agents complement each other, where we each work in tandem to engage consumers
- Agent Compensation – leave up to free market -- health plans will contract with producers, verify licensing compliance and compensate producers as they do today.
- Agents should be part of the governance or advisory board
- SB 496 as amended – we fully support – keep Virginia business friendly

30,000 licensed agents in Virginia – stand ready to assist with practical solutions, help simplify the application process, providing value, efficiencies and expertise to Virginia consumers



# Exchange Transformation—

## Unknown Possibilities, WHAT IF's to Consider?

- If you build it, will they come?
- Technical failures
- Insurers don't participate in the Exchange
- Eligible Virginians don't apply for tax credits
- Exchange unable to handle consumer demand
- Existing insurance rates spike – winners & losers, PCIP ?
- Employers drop coverage – jumpers & dumpers
- Can we create a self sustaining exchange by 2015?
- Optimistic Skepticism – watch and wait, so slow takeoff
- Some we control, others we must avoid compounding and we hope to help you make Exchanges successful







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